

Richard A. Harpootlian, *pro hac vice*  
*rah@harpootlianlaw.com*  
Phillip Barber, *pro hac vice*  
*pdb@harpootlianlaw.com*  
RICHARD A. HARPOOTLIAN, PA  
1410 Laurel Street  
Columbia, South Carolina 29201  
Telephone: (803) 252-4848  
Facsimile: (803) 252-4810

BRYAN M. SULLIVAN (SBN 209743)  
*bsullivan@earlysullivan.com*  
ZACHARY C. HANSEN (SBN 325128)  
*zhansen@earlysullivan.com*  
EARLY SULLIVAN WRIGHT GIZER & McRAE LLP  
6420 Wilshire Boulevard, 17th Fl.  
Los Angeles, California 90048  
Telephone: (323) 301-4660  
Facsimile: (323) 301-4676

Attorneys for PLAINTIFF  
ROBERT HUNTER BIDEN

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

ROBERT HUNTER BIDEN, an  
individual,  
  
Plaintiff,  
  
vs.  
  
PATRICK M. BYRNE, an individual,  
  
Defendant.

**Case No. 2:23-cv-09430-SVW-PD**

*Hon. Stephen V. Wilson*

**PLAINTIFF ROBERT HUNTER  
BIDEN'S REPLY TO  
DEFENDANT'S RESPONSE TO  
PLAINTIFF'S FINAL RULE 26  
PRETRIAL DISCLOSURES (ECF  
NO. 286)**

Complaint Filed: November 8, 2023  
Trial Date: July 29, 2025

**MEMORANDUM OF POINTS AND AUTHORITIES**

Plaintiff Robert Hunter Biden (“Defendant”) hereby submits his reply to Defendant Patrick M. Byrne’s (“Defendant”) “Response to Plaintiff’s Final Rule 26 Pretrial Disclosures”, which was filed on July 25, 2025 at ECF No. 286.

Despite the title of the documents filed by Defendant at ECF No. 286, in reality the document is Defendant’s own Final Pretrial Disclosures, which are being filed 25 days after the deadline to do so, in an attempt to circumvent the untimely nature of such a filing. *See* Fed. R. Civ. P. 26(a)(3)(B) (“Unless the court orders otherwise, these disclosures must be made at least 30 days before trial.”) 30 days before the July 29, 2025 trial date was June 30, 2025, and Defendant failed to file his final pretrial disclosures by that deadline. So, Defendant is precluded from doing so now.

The obvious purpose of such a late filing is because on July 23, 2025, despite representations to the contrary to the Court at the July 21, 2025 Final Pretrial Conference, Defendant notified the Court that Defendant will not be attending trial in person (ECF No. 272) and now he wishes to designate portions of his own deposition in lieu of live testimony, and object to Plaintiff’s designations. Not only is such a designation of a party’s own deposition testimony for use at trial when that party has procured their own unavailability improper and not permitted<sup>1</sup>, but his counter designations and objections are untimely. In addition to the portion cited above, FRCP 26(a)(3)(B) also provides that “[w]ithin 14 days after [pretrial disclosures] are made, unless the court sets a different time, a party may serve and promptly file a list of the following objections: any objections to the use under Rule 32(a) of a deposition designated by another party under Rule 26(a)(3)(A)(ii)[.]” That means Defendant’s counter designations were due June 30, 2025, and his objections to Plaintiff’s

<sup>1</sup> *See* Fed. R. Civ. P. 32(a); *see also Culebra II, LLC v. River Cruises and Anticipation Yachts, LLC*, 564 F. Supp. 2d 70, 79-80 (D. Me. 2008) (“When a party requests admission of its own deposition due to unavailability, the burden is on that party to demonstrate that it has not procured its own absence”); *Fairfield 274-278 Clarendon Trust v. Dwek*, 970 F.2d 990, 995 (1st Cir. 1992) (same).

1 designations were due July 14, 2025. Defendant failed to make the required  
2 disclosures and objections by each deadline and cannot do so now under the guise of a  
3 different titled pleading.

4 As the Court is aware, at the July 21, 2025 Final Pretrial Conference,  
5 Defendant's counsel represented to the Court that he had not received Plaintiff's  
6 deposition designations:

7 "THE COURT: I see. And when you say you intend to publish excerpts  
8 of [Defendant's] deposition, have those excerpts been shown to the  
9 defendant?

10 MR. BARBER: Yes, Your Honor.

11 ...

12 THE COURT: Just briefly, what is the status?

13 ...

14 MR. MURPHY: I did not receive the excerpts yet. If they prepared them,  
15 I haven't received them."

16 (Declaration of Zachary C. Hansen ("Hansen Decl."), at ¶2, Ex. 1 at 8:25-9:18.) This  
17 was either an outright intentional misrepresentation on Defendant's counsel's part or  
18 inexcusable neglect resulting in a false representation to the Court, because, as the  
19 Court's public ECF docket shows, Plaintiff indeed timely filed his Final Pretrial  
20 Disclosures on June 30, 2025, at ECF No. 242, with the designations of the various  
21 depositions Plaintiff intended to use at trial attached thereto as Exhibits A-C (ECF  
22 Nos. 242-1, -2, -3).

23 Nevertheless, the Court ordered Plaintiff to serve his designations on  
24 Defendant's counsel again on July 21, 2025, which he did (*see* Hansen Decl., at ¶3,  
25 Ex. 2), and for Defendant to serve objections thereto by Thursday July 24, 2025.  
26 (Hansen Decl., at ¶2, Ex. 1 at 10:17-21 ("And I want your objections, if any, to be  
27 filed no later than Thursday.") On Wednesday July 23, 2025, Defendant's counsel  
28 sent an email to Plaintiff's counsel stating: "We have no objection to your deposition

1 designations for the defendant.” (Hansen Decl., at ¶4, Ex. 3.) And yet, two days later,  
2 on Friday July 25, 2025 – after the Court’s new deadline – Defendant filed his  
3 “Response to Plaintiff’s Final Rule 26 Pretrial Disclosures” objecting to Plaintiff’s  
4 deposition designations for Defendant despite previously stating he had none. (ECF  
5 No. 286.) The Court should not countenance this blatant gamesmanship and  
6 misrepresentations to the Court and Plaintiff’s counsel in violation of the Court’s  
7 Civility Guidelines and the Rules of Professional Responsibility.

8 For the foregoing reasons, the Court should strike Defendants ECF No. 286,  
9 deny all of his asserted objections, deem his counter designations under Rule 32(a)  
10 improper, and Order that Defendant is not permitted to publish any portions of  
11 Defendant’s deposition for use at trial.

12  
13 Dated: July 25, 2025

EARLY SULLIVAN WRIGHT  
GIZER & MCRAE LLP

14  
15 By: /s/ Zachary C. Hansen

16 BRYAN M. SULLIVAN (State Bar No.  
209743)  
17 bsullivan@earlysullivan.com  
18 ZACHARY C. HANSEN (State Bar No.  
325128)  
zhansen@earlysullivan.com  
19 EARLY SULLIVAN WRIGHT GIZER  
& McRAE LLP  
20 6420 Wilshire Boulevard, 17th Fl.  
Los Angeles, California 90048  
21 Telephone: (323) 301-4660  
Facsimile: (323) 301-4676

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rah@harpootlianlaw.com  
23 Phillip Barber, *pro hac vice*  
pdb@harpootlianlaw.com  
24 RICHARD A. HARPOOTLIAN, PA  
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26 Telephone: (803) 252-4848  
Facsimile: (803) 252-4810

27 *Attorneys for Plaintiff*  
28 *Robert Hunter Biden*

**DECLARATION OF ZACHARY C. HANSEN**

I, Zachary C. Hansen, declare and state as follows:

1. I am an Attorney within the law firm of Early Sullivan Wright Gizer & McRae LLP, attorneys of record for Plaintiff Robert Hunter Biden (“Plaintiff”) herein. I submit this declaration in support of Plaintiff’s reply to Defendant Patrick M. Byrne’s (“Defendant”) “Response to Plaintiff’s Final Rule 26 Pretrial Disclosures”, which was filed on July 25, 2025 at ECF No. 286. If called as a witness, I would and could testify to the matters contained herein.

2. Attached hereto as **Exhibit “1”** are true and correct copies of relevant portions of the court reporter’s transcript from the July 21, 2025 Final Pretrial Conference.

3. Attached hereto as **Exhibit “2”** is a true and correct copy of an email I sent to Defendant’s counsel on July 21, 2025.

4. Attached hereto as **Exhibit “3”** is a true and correct copy of an email I received from Defendant’s counsel on July 23, 2025.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 25<sup>th</sup> day of July, 2025, at Summit, New Jersey.

/s/ Zachary C. Hansen  
Zachary C. Hansen